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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Report of the Special Rapporteur on trafficking in persons, especially women and children, Joy Ngozi Ezeilo

Thematic report

Summary

In the present report, the Special Rapporteur provides an overview of her activities from 1 March 2013 to 1 March 2014.

The report comprises a thematic analysis of the first decade of the mandate of the Special Rapporteur on trafficking in persons, especially women and children. It provides an overview of the mandate and outlines substantive areas of focus throughout its existence. It summarizes the achievements of the anti-trafficking movement that the Special Rapporteur has guided, and to which she has contributed, and identifies challenges in developing rights-based responses to trafficking, drawing on the responses of States and of partners, to a questionnaire she sent.

The report contains the conclusions and recommendations of the Special Rapporteur on how the mandate can further contribute to the global movement against human trafficking.

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I. Introduction

1. The present report is submitted pursuant to Human Rights Council resolution 17/1. It outlines the activities of the Special Rapporteur on trafficking in persons, especially women and children and contains a thematic analysis of the first decade of the mandate.

II. Activities carried out by the Special Rapporteur

2. With regard to the activities carried out from 1 March to 31 July 2013, the Special Rapporteur refers to her report submitted to the General Assembly (A/68/256). Her activities from 1 August 2013 to 28 February 2014 are briefly outlined below.

A. Participation in conferences and consultations

3. The Special Rapporteur convened regional consultations on the right to an effective remedy for trafficked persons in Bangkok on 27 September 2013, in Abuja on 21 November 2013 and in Amman on 9 January 2014. She also convened global consultations on the same topic in New York on 24 October 2013 and in Vienna on 7 November 2013.

4. On October 7 2013, the Special Rapporteur took part as a panellist in the showcase session of the International Bar Association on the theme of "Human trafficking: modern slavery".

5. On 2 November, she presented a keynote address on what it will it take to end the impunity of human trafficking during a workshop on the theme of "Trafficking in human beings: modern slavery" organized by the Vatican.

6. On 6 November, she delivered opening remarks at the fifth session of the Working Group on Trafficking in Persons.

7. On 19 and 20 November, she participated in a conference organized by the International Labour Organization (ILO) on combating forced labour and trafficking in Africa.

8. On 4 December, she convened a panel for non-State actors on preventing and addressing the trafficking of persons in global supply chains, during the second session of the Forum on Business and Human Rights.

9. On 17 and 18 February the Special Rapporteur took part in a meeting of the expert group of the United Nations Office on Drugs and Crime working on the issue of trafficking in persons. The group met to develop a paper on the concept of consent in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. Thereafter, she attended the high-level conference organized by the Council of Europe, the Organization for Security and Cooperation in Europe (OSCE) and the Governments of Austria and Switzerland entitled "Not for sale – joining forces against trafficking in human beings".

B. Country visits

10. The Special Rapporteur visited Italy from 12 to 20 September 2013, Bahamas and Belize from 9 to 16 December 2013 and Seychelles from 27 to 31 January 2014 at the invitation of the respective Governments. Full reports of those visits are contained in the

addenda to this report. She thanks the Governments for their cooperation prior to and during the visits.

III. First decade of the mandate of the Special Rapporteur on trafficking in persons, especially women and children

11. The issue of trafficking in persons arrived on the international agenda in the mid-1990s with the commencement of work on a new treaty on trafficking, with a particular focus on organized criminal aspects, which would address the gaps in the understanding of trafficking in persons. In December 2000, the General Assembly adopted the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, the first international agreement on trafficking in persons since the adoption by the General Assembly in 1949 of the narrowly focused Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others. The adoption of the Protocol signalled a fundamental shift in the international approach to the exploitation of individuals for private profit. In the years that followed, other treaties on the subject were developed, along with a substantial body of soft law, including the Recommended Principles and Guidelines on Human Rights and Human Trafficking (E/2002/68/Add.1). International and regional bodies, along with civil society groups, became involved in researching the issue of trafficking and supporting anti-trafficking efforts, and States began to introduce new laws and policies aimed at criminalizing trafficking, protecting victims and preventing future trafficking. One State launched a unilateral monitoring mechanism that began reporting on, and evaluating the response of other States to, the issue of trafficking in persons.

12. The present review of the mandate seeks to examine and reflect on the first decade of work of the Special Rapporteur on Trafficking in persons, especially women and children, with particular attention paid to the principle that have informed the mandate since its inception, namely that the human rights of trafficked persons are at the centre of anti-trafficking efforts and that measures taken against trafficking should not adversely affect the human rights and dignity of all persons. The review is not exhaustive. Rather, it draws on documentation produced by the Special Rapporteur to identify key achievements and ongoing challenges within the context of global anti-trafficking efforts. In addition to providing a record of the work of the mandate, the Special Rapporteur seeks to draw lessons and insights for the future work of the mandate and the anti-trafficking sector as a whole.

13. While initiated by the current mandate holder, the review covers the whole duration of the mandate to date, including the work of the first mandate holder, Sigma Huda, between 2004 and 2007. Its preparation involved a desk review and analysis of the documentation produced by the two mandate holders, including annual and thematic reports, country mission reports, communications sent to Governments, statements from the mandate holders, research and reports of meetings. The Special Rapporteur also circulated a questionnaire to Member States and organizations to solicit their views on the achievements of the mandate and its future areas of work.[1]

14. The mandate has received valuable support from a wide range of stakeholders and partners, including States, United Nations agencies and international organizations,

[1] For more detail, see Addendum 2 to the present report entitled "Stocktaking exercise on the work of the mandate on its tenth anniversary".

academic institutions and non-governmental organizations (NGOs). The Special Rapporteur is grateful to all of them for their important contributions in the form of expertise, research and other types of support. She appreciates the efforts of States to reply to the questionnaires sent to them and their cooperation prior to, during and after country visits throughout the 10 years of the mandate. A number of independent experts have developed background papers and other materials in the context of the thematic studies of the Special Rapporteur. In 2011, a human trafficking research panel was established at Oxford and Cambridge Universities to support the work of the mandate by providing assistance on background research; it has made a substantial contribution to the work of the Special Rapporteur. Others who have provided substantive support include the international human rights clinic at Duke University School of Law and the African Women's Development Fund. The Special Rapporteur expresses her thanks to those mentioned and the many others who have provided the mandate with invaluable and much appreciated assistance over the past decade.

15. The Special Rapporteur also takes this opportunity to acknowledge the great contribution bravely and generously made by victims of trafficking to the work of the mandate and expresses her hope that their voices continue to guide and shape the mandate into the future.

IV. Mandate, legal framework and working methods

A. Mandate of the Special Rapporteur

16. In its decision 2004/110, the Commission on Human Rights appointed a Special Rapporteur "whose mandate will focus on the human rights aspects of the victims of trafficking in persons, especially women and children". In the same decision, the Commission invited the Special Rapporteur to submit annual reports, including recommendations on measures required to uphold and protect the human rights of victims. The Special Rapporteur was further requested to respond effectively to reliable information on possible human rights violations, with a view to protecting the human rights of actual or potential victims of trafficking and to cooperate with relevant United Nations bodies, regional organizations and victims and their representatives. The establishment of the position of Special Rapporteur, with an explicit mandate to address the human rights aspects of trafficking, proved to be a critical circuit-breaker, affirming on behalf of the international community two key principles: first, that the human rights of trafficked persons should be at the centre of all efforts to combat trafficking; and second, that anti-trafficking measures should not adversely affect the human rights and dignity of all persons concerned.

17. The initial mandate of the Special Rapporteur was for three years. In 2008, in resolution 8/12, the Human Rights Council extended the mandate for a further three years, in order to, inter alia, "promote the prevention of trafficking in persons in all its forms and the adoption of measures to uphold and protect the human rights of victims". The appointment of the current mandate holder was based on this resolution. The resolution specifically requested the Special Rapporteur to, inter alia, promote the effective application of relevant international norms and standards and contribute to the further improvement of them; integrate a gender and age perspective throughout the work of the mandate; identify and share best practices, propose adequate responses to challenges and obstacles, in order to uphold and protect the human rights of victims, and identify gaps in protection in this regard; emphasize practical solutions, including through international cooperation; and respond to reliable information on alleged human rights violations with a view to protecting the human rights of actual or potential victims of trafficking. Specific

reference was made in the resolution to the relevant international instruments: the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Right, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child and its Protocol on the sale of children, child prostitution and child pornography and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

18. In 2011, in resolution 17/1, the Human Rights Council extended the mandate of the Special Rapporteur for a further three years. In resolution 17/1, the Council reiterated the relevant standards, principle areas of focus and working methods set out in its previous resolution, adding a request that the mandate "examine the impact of anti-trafficking measures on the human rights of victims of trafficking in persons with a view to proposing adequate responses to challenges arising in this regard and to avoid re-victimization of victims of trafficking".

B. Definition and scope of trafficking in persons

19. Trafficking in persons was defined internationally for the first time in article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, as constituting three elements: (a) an "action", being recruitment, transportation, transfer, harbouring or receipt of persons; (b) a "means" by which that action is achieved, for example threat or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power or a position of vulnerability and the giving or receiving of payments or benefits to achieve the consent of a person having control over another person; and (c) a "purpose" of the intended action or means, namely exploitation. Thus, consent of the victim to the intended exploitation is irrelevant when any of the listed means have been used. All three elements must be present to constitute "trafficking in persons" in international law. The only exception is that when the victim is a child, the "means" element is not part of the definition.

20. Since the inception of the mandate, both mandate holders have upheld the international legal definition of trafficking, affirming its central role in establishing the parameters of trafficking and enabling responses to be developed with consistency and clarity. That definition is now well entrenched in international, regional and national normative frameworks developed since the adoption of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children. The majority of States (reported in 2012 by UNODC to be 134[2]) have criminalized trafficking in their national laws, generally conforming to the definition in the Protocol.

21. That definition affirmed that trafficking is much wider in scope than previously envisaged: that it can take place for a wide range of end purposes, including, but not limited to, sexual exploitation; that it can involve as victims men and boys, as well as women and girls; and that it can take place across borders or within a country, including the victim's own. The Special Rapporteur has embraced this understanding of trafficking, affirming in her first report the scope of the mandate to include trafficking in children for sexual purposes, child labour, adoption and participation in armed conflict; trafficking in men for forced labour, organized crime and other exploitation; trafficking in women and girls for

[2] *Global Report on Trafficking in Persons 2012* (United Nations publication, Sales No. E.13.IV.1).

forced marriage, sexual exploitation and forced labour; and trafficking in persons for the removal of organs (A/HRC/10/16, para. 16).

22. The Protocol proved to be both an impetus and a framework for subsequent legal and policy developments that, taken together, have helped to clearly establish the obligations of States in this area. The Special Rapporteur has regularly promoted the effective implementation of the Protocol and encouraged its ratification.

C. Working methods

23. The approach to the mandate has been guided by Human Rights Council resolutions 8/12 and 17/1, which required the Special Rapporteur to: (a) seek and receive information from States, human rights bodies and other relevant sources and respond effectively to such information; (b) recommend practical solutions with regard to the implementation of relevant rights; (c) examine the human rights impact of anti-trafficking measures with a view to proposing adequate responses; and (d) work closely with other mechanisms of the Human Rights Council, the United Nations and other partners. In the discharge of her mandate the Special Rapporteur has focused particularly on the working methods set out below.

24. Communication and engagement with stakeholders. Trafficking in persons is a critical issue for every country, affecting many different groups and cutting across multiple areas of legal and illegal activity. The range of current and potential stakeholders is accordingly very wide. The first mandate holder recognized this aspect of her work from the outset (E/CN.4/2005/71, paras. 41–47) and made consistent efforts to extend her engagement beyond Governments and international agencies to include the full range of civil society organizations working on the issue, as well as those engaged in related areas, such as the rights of migrants and violence against women. Her participatory and collaborative approach was continued and extended by the current mandate holder, who declared an intention to "reach out, listen, learn and share good practice around the world" (A/HRC/10/16, para 62). She has put this commitment into practice through regular, broad-based regional consultations aimed at securing expert input into her work while improving the understanding of the mandate amongst interlocutors.

25. The Special Rapporteur has also engaged directly and consistently with international, regional and subregional bodies working on trafficking issues, most particularly UNODC, OSCE, the United Nations Children's Fund (UNICEF), the International Organization for Migration, ILO, the United Nations High Commissioner for Refugees and the International Committee of the Red Cross, as well as regional bodies, including the Association of Southeast Asian Nations and the African Commission on Human and Peoples' Rights.

26. In the course of her work the Special Rapporteur has also actively solicited input from the private sector and from persons and institutions with particular expertise. In relation to specialist subjects, such as trafficking in persons for the removal of organs, the Special Rapporteur has sought external expertise from the medical and transplant communities, in an effort to ensure the accuracy of her reporting and the practical relevance of her recommendations, as well as to improve understanding among relevant stakeholders.

27. Communication with victims of trafficking. The mandate of the Special Rapporteur is focused on the rights and needs of victims of trafficking and it is appropriate that victims are consulted and involved in the work of the mandate. The Special Rapporteur has paid particular attention to developing this aspect of her working methods. She has participated in panel discussions involving survivors of trafficking in New York and Geneva and has included the voices of victims in her studies and reports. She is convinced that the

involvement of victims is critical to ensuring that the measures taken to address trafficking benefit those in need; that unintended harmful consequences are anticipated and avoided; and that opportunities for change and improvement are identified in a timely way.

28. Thematic studies and reports. Thematic studies have been a major focus of the work of the Special Rapporteur, enabling the mandate to make substantial and (according to the responses to the questionnaire) highly appreciated contributions to poorly understood or new areas of concern. The topics for study have been carefully chosen on the basis of their relative importance and urgency, as well as the capacity of the Special Rapporteur to make a contribution to shaping international standards and promoting awareness in the chosen area. Issues covered in this way have included measures to discourage demand (2006 and 2013); trafficking for forced marriage (2007); victim identification, protection and assistance (2009); regional and subregional cooperation in promoting a human rights-based approach to trafficking (2010); prevention of trafficking (2010); the right to an effective remedy for trafficked persons (2011); the administration of criminal justice in the cases of trafficked persons (2012); trafficking in supply chains (2012); and trafficking in persons for the removal of organs (2013). In accordance with the mandate issued by the Human Rights Council, particular emphasis has been placed on developing practical solutions to the issues under consideration.

29. Country visits and reports. Country visits help to ground the mandate holders' understanding of the problem of trafficking in national realities and forging relationships with those on the front line, while also providing involved States and their partners with an opportunity to access information, expertise and insight. Respondents to the questionnaire, including several States, noted that official missions had influenced shifts in policy and practice around trafficking, for example leading to changes in migration policies, amendments to the national trafficking law and improved cooperation with civil society organizations. Several international organizations noted that the official missions had provided valuable opportunities for stakeholders to convey their views and insights to the higher levels of Government and that the reports were an excellent source of useful, high-quality information.

30. During those visits, the focus was on the nature of the trafficking problem, the key human rights issues and the effectiveness of institutional, legal, judicial, administrative and other mechanisms to protect those rights. In her country visits, the Special Rapporteur has taken care to ensure that they are widely consultative, involving government officials (including practitioners); victim support agencies and, where appropriate, victims; members of the judiciary and parliamentarians; United Nations country offices; and international and non-governmental organizations in the country concerned, as well as local civil society organizations. A detailed report is subsequently issued. The reports have evolved to follow a format that tracks the major issues of concern to the mandate: forms and manifestations of trafficking; the legislative and institutional framework; identification of trafficked persons; protection of trafficked persons; prosecution of perpetrators; cooperation with civil society; and international and regional cooperation. In the decade since the mandate was created, 21 official country visits have been undertaken. The first mandate holder carried out five visits: to Bosnia-Herzegovina and Lebanon in 2005 and to Bahrain, Oman and Qatar in 2006. The current mandate holder has undertaken 16 visits: to Belarus, Poland and Japan in 2009; to Egypt, Argentina and Uruguay in 2010; to Thailand and Australia in 2011; to the United Arab Emirates, Gabon and the Philippines in 2012; to Morocco, Italy, Bahamas and Belize in 2013; and Seychelles in 2014.

31. Recommendations and checklists. The Special Rapporteur has actively sought to promote normative clarity around trafficking and help flesh out the substantive content of key rules and obligations where that is required. This work has been firmly based on existing international standards, as recognized in the major human rights treaties and the

specialist trafficking instruments. A major output of this method of work is a set of draft basic principles on the right to an effective remedy (A/HRC/17/35, annex I), developed after extensive consultations with stakeholders in all regions, which seek to bring clarity to the concept of the right to an effective remedy and set out the factors to be taken into account when this right is applied to trafficked persons. The Special Rapporteur has also created a draft checklist of indicators and benchmarks which businesses can use to assess the risks of human trafficking in their supply chains (2012). The checklist was developed and revised through consultations and is intended to build on and complement existing initiatives, including the Guiding Principles on Business and Human Rights.

32. Action on communications and urgent appeals. The Special Rapporteur is explicitly mandated to respond effectively to reliable allegations of human rights violations, with a view to protecting the rights of actual or potential victims of trafficking. In accordance with established procedures, the Special Rapporteur communicates the case to the Government concerned, requesting clarification and action, either through an allegation letter or through an urgent appeal where the alleged violation is time-sensitive and/or of a very grave nature. Since the mandate was established a total of 99 communications have been sent and a total of 54 responses received.

V. Overarching principles and themes

33. In their performance of the mandate, the two mandate holders have affirmed a number of overarching principles and themes as central to all aspects of their work. Those principles and themes draw both inspiration and substance from international legal frameworks around trafficking and seek to reinforce the consensus that has developed around the scope of the problem and the direction of appropriate responses.

A. Strategic direction: five "Ps", three "Rs" and three "Cs"

34. Overall strategic direction. At the commencement of the mandate the "three Ps", protection, prosecution and prevention, were already well established as guideposts for the strategic organization of responses to trafficking at the national, regional and international levels. They provided important guidance and structure to the mandate during its first several years. In 2009, the Special Rapporteur proposed an expansion of this strategic vision to include eight more pillars:

(a) An additional two "Ps" focused on criminal justice: punishment of perpetrators/non-punishment for trafficked persons and promotion of international cooperation;

(b) Three victim-centred "Rs" - redress, rehabilitation and reintegration;

(c) Three "Cs" - capacity, coordination and cooperation.[3]

Together, these 11 pillars have supported the Special Rapporteur in shaping and promoting a coherent and comprehensive vision of an effective and rights-based response to trafficking.

[3] See A/HRC/10/16, section V, and the statement made by the Special Rapporteur to the Third Committee on 25 October 2010 during the sixty-fifth session of the General Assembly.

B. All forms of trafficking and all victims

35. As noted above, international understanding of the nature and scope of trafficking has expanded significantly in the past several decades. It is now widely accepted that women, men and children are trafficked and that the forms of trafficking are as varied as the potential for profit or other personal gain. This development is highly significant from the perspective of international law because it brings within the relevant legal framework a wide range of exploitative conduct, much of which has been poorly or selectively regulated at both national and international levels.

36. Both mandate holders have embraced this comprehensive understanding of trafficking, which includes trafficking in children for sexual purposes, child labour, adoption and participation in armed conflict; trafficking in men for forced labour and other exploitation; trafficking in women and girls for forced marriage, sexual exploitation and forced labour; and trafficking in persons for removal of organs.

C. A human rights-based approach

37. A human rights-based approach has been integral to the mandate since its inception in recognition of the fact that responses to trafficking have not always been grounded in the firm foundations provided by human rights. The Special Rapporteur has consistently maintained that prioritizing other concerns, such as crime prevention and migration control over human rights, distorts the nature of the problem and obscures the most important and effective solutions. The two fundamental principles of a human rights approach were set out by the first mandate holder in her first report and they continue to guide the work of the mandate. They are first, that the human rights of trafficked persons must be at the centre of all efforts to combat trafficking and to protect, assist and provide redress to those affected by trafficking; and second, that anti-trafficking measures should not adversely affect the human rights and dignity of the persons concerned (E/CN.4/2005/71, para. 11). The current mandate holder has actively sought to develop the concept further, for example by showing how consultation with those who will be or have been affected by potential anti-trafficking measures is essential to a human rights approach to trafficking (A/HRC/23/48, para. 76).

D. A child-centred approach

38. It is well established that the trafficking of children through abduction, sale and other means is a widespread criminal phenomenon affecting all regions and most countries. The work of the mandate has confirmed that children are trafficked for the purpose of sexual exploitation, including prostitution and the production of pornography. They are trafficked for forced and exploitative labour on farms, in factories and on fishing boats, for forced begging and for domestic servitude in private homes. While much trafficking of children involves movement across international borders, many countries experience the phenomenon of internal trafficking of children.

39. The Special Rapporteur has repeatedly emphasized that the needs of child victims of trafficking in terms of assistance, protection and support will often differ substantially from those of adults and has advocated for child-specific and child-centred measures in relation to the identification and protection of, and assistance to, children that are based on the principles and provisions of existing human rights law, most importantly the Convention on the Rights of the Child (A/64/290, paras. 68–76). Such an approach also involves listening and responding to the voices and views of children who have been or who are at risk of being trafficked (A/HRC/23/48, para 69).

E. Attention to causes and vulnerability factors

40. The mandate holders have been mindful that prevention of future trafficking must be based on a thorough and nuanced understanding of the root causes of this phenomenon, including the factors that make some people more vulnerable than others to exploitation related to trafficking. Such an understanding also helps to guide more effective responses, for example by helping to identify persons and groups at risk of trafficking and by shaping public and official understanding about how trafficking happens and why. Furthermore, attention to underlying causes helps to counteract the prevailing narrative in reporting on these issues, dominated by sensationalist stories about victims of trafficking, which routinely overlook the underlying social and economic factors that led to the violation of their human rights (A/67/261, para. 42).

41. During the first decade of the mandate, the mandate holders have consistently sought to identify those factors that contribute to increasing the vulnerability to trafficking of an individual or a group. The work of the mandate has revealed consistency across all regions and all manifestations of trafficking with regard to the factors that include human rights violations associated with (a) poverty and inequality, (b) migration and (c) discrimination, including through gender-based violence. Critically, there is almost never a single root cause; as the Special Rapporteur has noted, "it is the combination of multiple factors that may place certain individuals at a higher risk of being trafficked" (A/65/288, para. 26). The Special Rapporteur has maintained throughout that States have a legal obligation to work to prevent trafficking by addressing vulnerability. That obligation is part of international treaty law and has been regularly affirmed by the Human Rights Council and the General Assembly,[4] as well as by the human rights treaty bodies.

VI. Major areas of focus and concern

42. Both mandate holders have taken a strongly thematic approach to their work, actively seeking to identify cross-cutting concerns and aspects and manifestations of trafficking that are highly relevant to all States and have not yet been subject to detailed consideration. This is especially appropriate given that trafficking, as now understood, is a new issue for many Governments and for the international community as a whole. In the present section, the Special Rapporteur has identified five areas of the work that have emerged as major themes of importance to the anti-trafficking movement as a whole, namely: (a) the right of victims to assistance, protection and support; (b) the right of victims to remedies; (c) human rights in the criminal justice response; (d) the prevention of trafficking - identifying the core strategies; and (e) trafficking in persons for the removal of organs. Some of these have been regularly considered throughout the mandate in the context of annual reporting and/or country visits. Others have been subject to separate, detailed consideration. It should be noted that the breadth of the work of the Special Rapporteur is considerable and the present report does not include all substantive areas dealt with by the mandate holders.

A. Rights of victims to assistance, protection and support

43. In line with the rights-based and victim-centred approach taken throughout the mandate, both mandate holders have focused strongly on elaborating the legal dimensions

[4] See, for example, General Assembly resolution 67/145, paras. 10–12 and 22 and Human Rights Council resolution14/2, para. 7 (g).

of the right of victims to assistance, protection and support and in considering the extent to which these rights are respected and protected in practice. It is abundantly clear that States are indeed required to provide immediate assistance and support to victims of trafficking within their jurisdiction and to protect them from further harm.[5] The provision of immediate assistance, protection and support should not be conditional on the capacity or willingness of the victim to cooperate with criminal justice agencies. In 2009, the Special Rapporteur devoted a thematic report to the issue of victim identification, protection and assistance, affirming the key responsibilities of States in this regard and identifying ways in which these obligations can be effectively met in practice (A/64/290).

44. Victim identification is fundamental to the realization of victim rights. By not identifying victims swiftly and accurately States effectively and permanently deny victims the rights to which they are legally entitled (ibid., para. 91). Both mandate holders have drawn attention to the failure of criminal justice systems to identify trafficking victims, who instead are often arrested, detained, charged and prosecuted for entering a country and working irregularly, or engaging in prostitution.[6] As noted by the Special Rapporteur, "victims are simply treated as criminals and are arrested and deported with no opportunity to be identified and provided with the necessary assistance as trafficked victims" (A/64/290, para. 91). Both mandate holders have advocated for more thorough and collaborative approaches to victim identification. The Special Rapporteur has repeatedly encouraged greater cooperation between victim support agencies and front line officers.[7]

45. Trafficked men. The Special Rapporteur has regularly raised concerns about the lack of appropriate assistance to men and boys who have been trafficked.[8] Low identification rates are a widespread problem. Many States have been slow to recognize the issue of trafficking in men, a situation that is explained, at least in part, by the continuing strong focus on trafficking for sexual exploitation at the expense of trafficking for labour exploitation. For cultural and other reasons, male victims of trafficking are often reluctant to self-identify. Even where victim support assistance is available, it may be inaccessible or not properly adapted for them and declined for those reasons.

46. No prosecution or punishment. The acceptance that victims of trafficking should not be punished – or indeed prosecuted – for offences that have been committed in the course of their trafficking, such as immigration and work offences has grown. The Special Rapporteur has regularly upheld the importance of this principle[9] and endorses the now widespread position that States should not prosecute or punish victims "for unlawful acts committed by them as a direct consequence of their situation as trafficked persons or where they were compelled to commit such unlawful acts" (CTOC/COP/WG.4/2009/2, para. 12(b)).[10] A number of States, international organizations and civil society groups responding to the questionnaire pointed to the work of the Special Rapporteur on this issue as a major achievement, helping to establish non-prosecution and non-punishment as an accepted standard.

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[5] See *Commentary on the Recommended Principles and Guidelines to Human Rights and Human Trafficking* (United Nations publication, Sales No. E.10.XIV.1), pp. 141–151.

[6] See A/HRC/20/18, paras. 23 and 24, E/CN.4/2005/71 para. 10, E/CN.4/2006/62/Add.3, paras. 47, 58, 63 and 64.

[7] See, for example, A/HRC/20/18, paras. 45–53.

[8] See, for example, A/HRC/23/48/Add.2, paras. 62, 92; A/HRC/23/48/ Add.1, para. 81 (v); A/HRC/17/35/Add.4, para. 85, A/HRC/14/32/Add.3, para. 61 and A/HRC/14/32/Add.4, para. 43. See also the statement by the Special Rapporteur at the end of her visit to Italy in 2013.

[9] See, for example, A/HRC/20/18 paras.23–30 and 89 and A/65/288, para 20.

[10] See also A/64/290, para. 95.

B. Rights of victims to remedies

47. From the inception of the mandate, both the Special Rapporteurs have clearly affirmed the right of victims of trafficking to access remedies for the harms committed against them. In country reports, both mandate holders have consistently examined the extent to which this right is protected by law and realized in practice. This has revealed that trafficked persons are frequently left without remedies or the support necessary to access them, a situation that exacerbates the risk of further human rights violations including through retrafficking. It was on the basis of insights gained through her country visits and information received through other activities, including her assessment of regional response mechanisms, that the Special Rapporteur decided to make effective remedies for victims the subject of more systematic and detailed attention. To that end she organized an expert consultation in 2010 that was followed by an online discussion forum and an interactive dialogue held during the seventeenth session of the Human Rights Council in the context of her thematic reports on the subject (A/HRC/17/35 and A/66/28). Regional consultations were held during 2013 and early 2014 to disseminate, discuss and refine a set of draft basic principles on the right to an effective remedy for trafficked persons.

48. Applicable legal framework. One of the main purposes of the work of the Special Rapporteur on effective remedies for victims has been to help clarify the relevant legal framework and by so doing, to provide guidance to practitioners and help address the substantial gap between the provisions of international law in this area and what happens in practice. In her report to the General Assembly on the issue, the Special Rapporteur referred to the established legal doctrine requiring a State to remedy a wrong where an act or omission is attributable to that State and constitutes a breach of its obligations (A/66/283, para. 12). While States are not usually the direct source of trafficking-related harm, they may not absolve themselves of legal responsibility on this basis. The obligation to provide remedies – or at least access to remedies – to victims of trafficking is set out in a number of relevant instruments[11] and has been widely recognized by United Nations bodies and regional courts.[12] Its essence is captured in principle 1 of the draft basic principles on the right to an effective remedy for trafficked persons: "Trafficked persons as victims of human rights violations have the right to an effective remedy for harms committed against them."

49. Substantive components of the right to a remedy. The Special Rapporteur has recognized four substantive components of the right to a remedy that are applicable in cases of trafficking in persons. They are captured in principle 4 of her draft basic principles: "In substance, trafficked persons should be provided with adequate reparations for the harms suffered, which may include restitution, compensation, recovery, satisfaction and guarantees of non-repetition." Compensation is of critical importance to victims of trafficking who are likely to have suffered significant harm and lost valuable opportunities. It can be awarded to victims through legal proceedings that may be civil or criminal. It can also be delivered through State-administered compensation funds or through non-judicial methods, such as those operating between employers and employees in respect of wage disputes and work-related injury compensation.

50. Procedural components of the right to a remedy. The procedural obligations may be conceived as the range of measures needed to guarantee access to an effective remedy, including access to information, legal assistance and regularization of residency status,

[11] See the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, art. 6 (6) and the Council of Europe Convention on Action against Trafficking in Human Beings, art. 15.

[12] See *Rantsev v. Cyprus and Russia*, European Court of Human Rights, application No. 2595/04, judgment of 7 January 2010.

which contribute to the realization by trafficked persons of the substantive components of the right to an effective remedy. The Special Rapporteur has come to appreciate that certain preconditions must be fulfilled if the right to a remedy for victims of trafficking is to be realized in practice. For example, failure to identify victims in the first place will inevitably operate to deny those persons access to remedies. In too many countries, trafficked persons, including those who have been identified as such, are detained or deported without being given any opportunity to claim compensation. Improvements in identification procedures; the institution of a "reflection and recovery period", during which victims can receive legal and other assistance; and a review of any legal obstacles to access are therefore critical to effective realization of the right to a remedy.

51. The draft basic principles on the right to an effective remedy for trafficked persons. The principles are firmly based on established rules of international law and are informed by an understanding of the legal and practical obstacles that have prevented progress in relation to remedies for victims of trafficking. The Special Rapporteur recommends the draft basic principles to States, intergovernmental organizations, non-governmental organizations, criminal justice agencies and others who may be in a position to contribute to the realization of the right of all victims of trafficking to remedies for the harms committed against them.

C. Human rights in the criminal justice response

52. The Special Rapporteur has noted an important shift in attitudes towards the criminal justice aspects of the trafficking response over the course of the mandate. The development of a new international legal instrument on trafficking within a crime control framework has raised understandable concerns that this focus would diminish the attention and commitment due to the human rights of victims. It is felt that a strong criminal justice response to trafficking may conflict with a rights-based, victim-centred response. While accepting the dangers that an overwhelming focus on investigations and prosecutions may take attention away from the rights and needs of victims, the Special Rapporteur notes that a strong response from the criminal justice system is an integral part of dealing effectively with trafficking. In short, there should not be a conflict between the rights of victims and the responses of the criminal justice system, provided that the latter explicitly set out both to challenge the culture of impunity enjoyed by traffickers and to secure justice for the victims.

53. Too often, victims of trafficking are treated as instruments of criminal investigations, rather than as rights holders with a legal entitlement to protection, support and remedies. In her report to the General Assembly in 2009, the Special Rapporteur affirmed her position that "administration of justice systems must be geared towards guaranteeing access to justice to victims, providing an effective remedy, promoting respect for the fundamental human rights of victims, including offenders, and ensuring adequate protection and assistance to victims of trafficking in order to prevent revictimization and avoid the danger of being retrafficked" (A/64/290, para. 99).

54. In 2011, in recognition of the pressing problems associated with the responses of the criminal justice system and the lack of available guidance, the Special Rapporteur undertook a thematic study of rights-based approaches to the administration of criminal justice. The study involved the commissioning of a background paper, the distribution of a detailed questionnaire to Member States and the convening of a group of expert practitioners. The resulting report affirmed the obligation on States to criminalize trafficking; to investigate and prosecute trafficking with due diligence; and to provide for appropriate penalties (A/HRC/20/18).

D. Prevention of trafficking: identifying the core strategies

55. The prevention of trafficking through addressing the underlying vulnerabilities of individuals and groups has been a key theme of the mandate since its inception. However the mandate holders have always accepted that the concept of prevention is much wider than this, encompassing the full range of measures aimed at preventing future acts of trafficking from occurring. International law requires that States act with due diligence to prevent trafficking and the human rights violations with which it is associated. The mandate has examined the general concept of prevention and particular aspects of a preventive approach, including addressing demand and supply chain transparency and accountability.[13] Key questions include, for example, what role should measures to encourage safe migration and protect labour rights play in a national or regional prevention strategy? Should States seek to raise public awareness about trafficking? What is required of States with respect to addressing the demand for the goods and services produced through trafficking? How does the obligation of prevention operate in respect of addressing trafficking-related exploitation in supply chains and how can business be encouraged to support supply chains that are free of trafficking? These are complex, difficult issues and the mandate has not been able to address them in full, rather seeking to raise awareness among States and others that will help contribute to a greater understanding of what is required and how it may be achieved.

56. Safe migration. The creation of opportunities for legal, gainful and non-exploitative migration is crucial for preventing future trafficking. That responsibility falls on countries of origin as well as countries of destination. For the former, the provision of adequate information about the rights of migrants and practical advice on how to manage risks in the migratory process are integral obligations. Countries of origin should also ensure that they have the consular facilities to maintain contact with their citizens working abroad and respond effectively to any concerns.[14] Countries of destination should ascertain the demand for migrant labour and develop the procedures and mechanisms that enable this demand to be met without exploitation.

57. Labour rights. In many countries, labour inspectorates are not up to the task of supervising workplaces and will anyway not have access to the common sites of exploitation for trafficked persons, which include brothels, private homes, farms and small factories. The Special Rapporteur has repeatedly called on States to strengthen their enforcement of labour laws and take steps to regulate the recruitment agencies that, along with the legitimate businesses that use their services, are profiting so handsomely from the exploitation of migrant workers. The mandate has ascertained that the failure to protect the rights of workers, and in particular migrant workers, is a major contribution to exploitation related to trafficking.

58. Public awareness. Awareness-raising campaigns can be an important method of prevention on two levels: first, by working with at-risk communities to warn them of the dangers of trafficking and second, by sensitizing the public in countries of destination to the plight of trafficked persons and informing them about their in role in prevention. However, the Special Rapporteur has noted that public awareness campaigns are sometimes crude in conception and execution, employing sensationalist scare tactics or designed simply to stop people from moving. There has also been very little critical examination of the effect of such campaigns, including the unintended negative effects that have been anecdotally noted

[13] See A/65/288, paras. 29–38, A/HRC/23/48 and A/67/261.

[14] See, for example, A/HRC/23/48/Add.3, para. 75 and A/65/288 para. 73.

by the Special Rapporteur in the course of her work,[15] pointing to a need for all countries to monitor and regularly evaluate the impact of their prevention efforts.

59. Addressing demand. Trafficking feeds into a global market that seeks out cheap, unregulated and exploitable labour and the goods and services that such labour can produce. Both mandate holders have affirmed that international law requires States to discourage the demand that fosters exploitation related to trafficking.[16] The Special Rapporteur has examined that demand in detail in the context of a review of prevention (A/65/288, paras. 29–38) and in a dedicated report (A/HRC/23/48). In the latter report, the Special Rapporteur recommended that States take steps to understand the nature of demand and develop measures to discourage it, based on accurate information and experience. Basic human rights, including the prohibition on discrimination, should further guide this process. The Special Rapporteur also noted the importance of ensuring that measures to address demand do not themselves negatively affect individual rights and freedoms.

60. Supply chains and public-private partnerships. The mandate has maintained a strong focus on non-State actors and the role they can or should play in preventing and responding to trafficking. Information about trafficked labour in the supply chains of major industries, including agriculture, information and communications technology, fishing, garment-making and textiles, has alerted the mandate to the importance of engaging directly with business corporations. Over the past years, the Special Rapporteur has taken up this difficult issue, undertaking research and holding wide-ranging consultations on trafficking in global supply chains. In a dedicated report she outlined a series of clear and practical recommendations for businesses and States to help them eliminate trafficking in the supply chain (A/67/261). This provided the basis for further consultations with business experts that resulted in a draft set of benchmarks and indicators for ensuring that supply chains are free of trafficking. That draft was presented to the Human Rights Council at its twenty-third session (A/HRC/23/48/Add.4, appendix I) and the second United Nations Forum on Business and Human Rights in 2013.

E. Trafficking in persons for the removal of organs

61. While trafficking in persons for the removal of organs is specified as a form of exploitation related to trafficking in the international legal definition, until very recently the mandate did not deal substantively with this issue. This reflected the paucity of reliable information on the practice and uncertainty around its true extent. However, in recent years, there have been a series of reputable reports documenting systematic trafficking in persons for the removal of organs in several different regions of the world and major prosecutions in Africa and Europe. Anecdotal reports of this form of trafficking in persons were also provided to the mandate in the context of recent country visits. Consistently with the commitment of the mandate to tackling difficult, emerging and under-researched issues, the Special Rapporteur focused her attention on trafficking in persons for the removal of organs, with a view to contributing to the international conversation at a pivotal point. She reported on trafficking in persons for the removal of organs on the basis of an expert background paper, peer-reviewed by an informal group of transplant specialists, ethicists and researchers. (A/68/256).

[15] See, for example, A/65/288, para. 45.

[16] Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, art. 9 (5) and Council of Europe Convention on Action against Trafficking in Human Beings, art. 6.

VII. Contribution of the mandate to key conceptual and legal gains

A. A broader focus

62. The past decade has been one of great development and change. With the benefit of an agreed definition of trafficking in persons, new international, regional and national laws, clearer policies and heightened political commitment, the mandate has been able to make a critical contribution at a unique moment in time. It has actively embraced and advocated for the definition of trafficking that is now enshrined in international law through the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, and other instruments and is reflected in the law of many States. This approach has been instrumental in helping to expand the focus of international and national anti-trafficking efforts beyond the previous focus on trafficking for the exploitation of prostitution and contributing to greater conceptual clarity around the parameters of the definition of trafficking. In their responses to the questionnaire, a number of States and organizations highlighted the substantial contribution of the mandate to expanding the discourse around trafficking. This expansion was noted in relation to: (a) identification and exploration of different forms of exploitation related to trafficking and (b) consideration of different avenues and actors that could or should play a role in preventing or responding to trafficking.

B. Greater clarity regarding the rights of victims

63. It is one thing to assert the human rights of victims of trafficking and another to specify, with a sufficient level of detail, what those rights actually are and what obligations they impose on States. That process is essential, because it is only through such certainty that it becomes possible to assess the extent to which a particular situation, initiative or response is in conformity with international human rights law. The task is made somewhat more difficult by the fact that the central international instrument relevant to trafficking, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, is not clear on the issue of the rights of victims. There are general references to human rights in the Protocol and it includes a number of obligations that may be understood as intended to protect victims. However, on its own, it makes little headway in establishing the precise nature of the entitlements of victims and how these should be met. It is also relevant to note that, when the mandate was first instituted, the international human rights system itself had not contributed substantially to clarifying the substantive content of relevant rights and obligations. While there was regular condemnation of the human rights violations associated with trafficking, the practice was rarely linked to the violation of a specific right in a specific treaty.

64. Throughout all aspects of its work, from country missions to thematic studies, the mandate has helped to confirm and promote awareness of those important rights. Respondents to the questionnaire sent to Member States and other actors by the Special Rapporteur confirmed that the work of the mandate in this area was one of its most significant achievements.

C. Greater clarity regarding the obligations and responsibilities of States

65. Respondents to the questionnaire noted that the mandate had also directly contributed to confirming and disseminating the obligations of States with respect to their

response to trafficking. The mandate has also been very clear that the obligations of States extend beyond those that relate immediately to victims. For example, in relation to the responses of the criminal justice system, the Special Rapporteur has confirmed the obligation on all States to investigate and prosecute trafficking, as well as the obligation to protect the rights of suspects and the right to a fair trial.[17] In their country mission reports, the mandate holders have also highlighted the link between corruption and trafficking, noting that States are required to act in preventing such corruption and dealing with it once it is uncovered.[18] More broadly, and in particular during the tenure of the current mandate holder, the mandate has examined the implications of the legal obligation on States to take steps to prevent trafficking, detailing actions that should be taken within the framework of a human rights approach (A/HRC/10/16, paras. 45–47).

VIII. Challenges

66. The work of the mandate has confirmed that the problem of human trafficking continues to be endemic in all parts of the world. While awareness of trafficking and of relevant rights and obligations has improved significantly, this has not resulted in substantial improvements on the ground. Large numbers of women, men and children continue to be exploited; very few receive support, protection or redress; few of those who are doing the exploiting are apprehended and in every country the number of prosecutions remains stubbornly low. Many of the obstacles to a more effective response have been addressed in the previous sections of the present report. Nevertheless, it is pertinent to draw out those challenges that are likely to be of particular concern to the international community and to the mandate as it evolves in the future.

A. Clarifying the parameters of the international legal definition

67. The parameters of the international legal definition need to be clarified, as it would be a mistake to assume that the adoption of the definition has ended discussion around the parameters of trafficking. In fact, there is a continuing vigorous debate within and among States and other actors over what conduct is or is not defined as "trafficking". For example, to what extent does the act of "harbouring" enable the definition to encompass the maintenance of an individual in a situation of exploitation and not just movement into that situation? Would a single, minor deception at the recruitment stage be sufficient to turn an exploitative situation into one of trafficking? Is the consent of the victim ever relevant in establishing whether trafficking has occurred? How broadly should the phrase "abuse of a position of vulnerability" be read? For example, should it include vulnerability related to economic necessity or to immigration status? How broadly should "exploitation" (including "sexual exploitation") be understood? What criteria, if any, should be used to determine whether other exploitative practices are to be included within the open-ended list set out in the international definition? What are the relationships between trafficking and related practices also prohibited under international law, including slavery, servitude and forced labour? When would an instance of forced labour or slavery not be trafficking? How should exploitation through debt bondage be understood in the context of modern recruitment and employment practices? And critically, at what point does a bad employment situation metamorphose into trafficking?

[17] See, for example, A/HRC/20/18, para. 71 and A/HRC/20/18/Add.2, para. 77 (h).

[18] See, for example, A/HRC/20/18, para. 90 and A/HRC/20/18/Add.2, paras. 72, 73 and 77 (h).

68. As UNODC has noted, these questions are important because to characterize certain conduct as "trafficking" has significant and wide-ranging consequences for States, for the alleged perpetrators of that conduct and for the alleged victims. It is also highly significant for organizations and agencies that are engaged in fighting "trafficking". UNODC identifies "a tension between those who support a conservative or even restrictive interpretation of the concept of trafficking and those who advocate for its expansion. The complex and fluid definition in the Protocol provides justification for both perspectives and has contributed to ensuring that such tensions remain unresolved".[19]

B. Strengthening the accountability of non-State actors and involving civil society

69. Another key challenge is the extent of the involvement of civil society and the community in combating and preventing trafficking in persons. The experience of the mandate has underlined the critical role that civil society must play in the response to trafficking at the national, regional and international levels. The Special Rapporteur has often noted tensions between civil society groups working on trafficking and Governments, and this needs to be better managed so that civil society organizations can contribute effectively.

70. The Special Rapporteur has repeatedly recognized the power of the media in raising community awareness of trafficking in all its forms and also informing vulnerable groups about certain migration risks. However that power makes it particularly important that media treatment of the issue of trafficking is both accurate and appropriate. The mandate has noted repeated examples of media sensationalism, manifested for example through a prurient and overly narrow focus on sexual exploitation. Other problems that are regularly encountered include the failure to adequately protect the privacy of victims; stigmatization of victims; and fostering confusion between trafficking and other phenomena, such as irregular migration and migrant smuggling.

C. Involving victims and vulnerable groups

71. The Special Rapporteur has consistently sought to engage victims in all aspects of her work and is of the view that the mandate has benefited enormously from this approach. Respondents to the questionnaire affirmed this finding, emphasizing the importance of the mandate focusing on the real experiences of victims and drawing on strong, evidence-based research. Several respondents identified the efforts of the Special Rapporteur to give a voice to victims, including at the Human Rights Council and the General Assembly, as a major achievement.

D. Improving compliance mechanisms at the national, regional and international levels

72. The mandate has drawn attention to worrying gaps between the obligations of States with regard to trafficking (what States are required to do or refrain from doing) and the extent to which those obligations are met in practice (what actually happens). This is particularly the case with regard to the rights of victims that, despite being protected by

[19] UNODC, "Abuse of a position of vulnerability and other 'means' within the definition of trafficking in persons", issue paper (Vienna, 2013), p. 1.

international and national laws, are often disregarded. This is not always the result of lack of political will. The complexity of the trafficking phenomenon, uncertainty about aspects of the solution and the fact that States are rarely the direct perpetrators of trafficking-related harm, all complicate the task of securing compliance with international legal rules. Improving compliance mechanisms at all levels must be a priority for States and the international community.

73. At the national level. The mandate has repeatedly called on States to strengthen their implementation machinery and has sought to provide practical guidance to States on implementing a rights-based approach. Respondents to the questionnaire identified this as a key contribution of the mandate. The Special Rapporteur has consistently advocated for the establishment of national rapporteurs or equivalent mechanisms in countries that do not yet have such a position. Where they do exist (principally, at present, in Europe), independent, appropriately tasked national rapporteurs have generally played an important role in monitoring the national situation; facilitating collaboration between different agencies and between the Government and civil society; and overseeing the collection and analysis of data on the national response and on trafficking trends. Their central role was confirmed at a consultative meeting in 2013 convened by the Special Rapporteur, which brought together, for the first time, national rapporteurs, from 19 countries. A follow-up meeting is scheduled for mid–2014. Of course, the national rapporteur mechanism is just one way for States to approach the challenge of compliance. The Special Rapporteur has encouraged States to consider additional paths to this end, including the development of national plans of action against trafficking and the establishment of broad-based consultation groups to advise and support implementation.

74. The mandate notes the unilateral compliance mechanism established by the Office to Monitor and Combat Trafficking in Persons of the United States Department of State, which undertakes an annual assessment of the trafficking situation in States worldwide and the quality of the national responses.[20] The Special Rapporteur has established an excellent working relationship with officials at the Office and generally welcomes this initiative as an important contribution to promoting strong national responses and increased awareness about trafficking throughout the world. However, she cautions that the criteria used to assess national performance should be explicitly based on international standards. This is not just essential to the credibility of the mechanism, it is also an important way to strengthen the international legal framework and affirm its key standards.

75. States parties to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, could also be encouraged to take up the challenge of implementation more creatively, for example by opening up the deliberations of the Working Group on the Universal Periodic Review to some input from civil society and providing it with more substantive oversight responsibilities. Trafficking remains a difficult issue for all States and increased support aimed at helping them to meet their international obligations should be welcomed.

IX. Conclusion and recommendations

76. **The Human Rights Council is to be congratulated for its wisdom and foresight in establishing a mechanism that has ensured human rights retain their rightful place at the centre of the international response to trafficking. This role has been particularly important in light of the fact that the key international treaty on trafficking was established outside the human rights system. States and partners,**

[20] See www.state.gov/j/tip/rls/tiprpt/.

including United Nations bodies, intergovernmental organizations, national human rights institutions and civil society, surveyed as part of the preparation for this report have affirmed the positive impact of the mandate on their work and on the anti-trafficking sector as a whole. They have drawn particular attention to the contribution of the Special Rapporteur to standard-setting; to mainstreaming human rights into the anti-trafficking discourse; and to drawing attention to emerging and less well-known forms of trafficking.

77. **On this basis, the Special Rapporteur offers the following recommendations for the Human Rights Council and future mandate holders.**

78. **The Human Rights Council should:**

(a) Continue the mandate, in recognition of the prevalence of trafficking in persons and the need for longer-term strategies with a human rights-based approach;

(b) Consider abbreviating the title of the mandate by removing the specific reference to women and children. While that reference is part of the title of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, it may deflect attention from the reality that trafficking is a problem affecting men as well as women and children. However, the substance of the mandate as set out in Human Rights Council resolution 8/12: "to promote the prevention of trafficking in persons in all its forms and the adoption of measures to uphold and protect the human rights of victims" has proved to be a sound one that requires no substantial modifications.

79. **Future mandate holders could focus on conceptual and definitional overlaps; the consequences of a human rights-based approach to trafficking; measuring the impact of anti-trafficking interventions, corruption and trafficking; and the effectiveness of victim identification tools. They should:**

(a) Consider undertaking studies in relation to emerging areas of concern, such as (i) illicit recruitment practices, (ii) trafficking in men for forced and exploitative labour, (iii) trafficking for forced begging and criminal activities, (iv) trafficking for forced or servile marriage and (v) return and the risk of retrafficking. They should consider giving further attention to trafficking in persons for the removal of organs in continuation of the initial work undertaken by the Special Rapporteur;

(b) Continue the cooperation between the mandate and international and regional and national mechanisms to combat trafficking in persons, in consultation with victims;

(c) Consider collaborating with the Special Rapporteurs on contemporary forms of slavery, including its causes and its consequences, on the sale of children, child prostitution and child pornography, and on the human rights of migrants, to capitalize on common interests and approaches;

(d) Continue promoting implementation of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, and relevant regional instruments, as well as other standards and policies related to trafficking in persons, including endorsing the draft basic principles on the right to an effective remedy for trafficked persons and encouraging States to incorporate them into domestic legislation;

e) Continue promoting the involvement of civil society in all international and regional anti-trafficking forms, including discussions on the review mechanism for the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children.